

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 13 of 18

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed December 1, 2004. In the Office Action, the Examiner notes that claims 1-23 are pending and rejected. By this response, claims 1, 18, and 20 are amended, claim 19 is cancelled, and claims 2-17 and 21-23 continue amended.

In view of both the amendments presented above and the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103.

It is to be understood that the Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to the Applicants' subject matter recited in the pending claims. Further, the Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

Rejections

35 U.S.C. §103

Claims 1-15 and 18-23

The Examiner has rejected claims 1-15 and 18-23 under 35 U.S.C. §103(a) as being unpatentable over Eyer et al. (6,401,242, hereinafter "Eyer") in view of Hendricks et al. (6,463,585, hereinafter "Hendricks"). The Applicants respectfully traverse the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The combination of the Eyer and Hendricks references fails to teach or suggest the Applicants' invention as a whole.

322598-1

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 14 of 18

Applicants' independent claim 1, as amended, (and similarly independent claims 18 and 20) recites:

"A system for providing interactive program guide (IPG), the system comprising:

a plurality of encoding units operative to encode a plurality of IPG pages and generate a plurality of streams, wherein each IPG page is associated with a stream and is assigned a respective packet identifier (PID);

at least one transport stream generator operatively coupled to the plurality of encoding units, each transport stream generator operative to receive and multiplex selected ones of the plurality of streams from one or more encoding units into one or more transport streams; and

a session manager coupled to the at least one transport stream generator and operative to direct each transport stream generator to generate the one or more transport streams based on usage." (emphasis added).

The Eyer reference discloses

Bundles allow an IRD to distinguish between two different IPG data blocks that are the same type of data (titles/schedules, for example) for the same time slot. Without the bundle numbers, the IRD can not distinguish between two data blocks of the same type and time slot, and would want to discard one as a duplicate. The use of bundled data blocks allows regional IPG data to be multicast addressed to the IRDs in the corresponding IPG regions while still broadcasting national (e.g., global) IPG data. The scheme involves addressing pages of IPG data by time slot, filtering data slots and pages using firmware and/or hardware filtering, delivering the data in a preformatted manner, and using separate data blocks to deliver title information and program description information. Multicast filtering is suitable here when all the IPG data is in one PID at rates of 20-200 kbps. (see Eyer, column 10, lines 32-47).

Accordingly, the Eyer reference discloses that all of the IPG data is in one PID. By comparison, the Applicants' invention discloses that "for the 40 continually broadcast IPG pages, 40 guide portions can be coded and assigned guide PIDs 1 through 40 and one video portion can be coded and assigned a video PID. An audio input can also be coded and assigned an audio PID, and data can be coded and assigned one or more data PIDs. These guide, video, audio, and data PIDs can be transmitted on a single transport stream 202, as shown in FIG. 2A. With a single transport stream, the terminal is able to retrieve all IPG pages quickly without having to switch between transport

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 15 of 18

streams." (see Applicants' specification, page 9, lines 27-33). In other words, the Eyer reference discloses a single PID for all the IPG data, as opposed to the Applicants' invention which utilizes a PID associated with each of the IPG pages.

Furthermore, the Hendricks reference fails to bridge the substantial gap between the Eyer reference and the Applicants' invention. In particular, the Hendricks reference discloses

Menu creation, both automatically and manually, is one of the major CAP functions that involves the incorporation of the raw data. An automated software procedure (such as the EIS) analyzes the data and, using certain heuristics, creates the menus. One heuristic, for example, is that when a show is not ordered frequently, it is moved closer to the top of the menu for greater visibility. (see Hendricks, column 20, lines 36-43).

Nowhere in the Hendricks reference is there any teaching or suggestion of each IPG page has an associated PID.

Even if the two references could somehow be operably combined, the combination would merely disclose an IPG data that is assigned a single PID, and generating menus by analyzing data and using certain heuristics to create the menus. Nowhere in the combined references is there any teaching or suggestion of "a plurality of encoding units operative to encode a plurality of IPG pages and generate a plurality of streams, wherein each IPG page is associated with a stream and is assigned a respective packet identifier (PID)". Therefore, the combination of Eyer and Hendricks fails to teach or suggest the Applicants' invention as a whole.

As such, the Applicants submit that independent claims 1, 18 and 20 and dependent claims 2-15, 19 and 21-22, which depend either directly or indirectly from independent claims 1, 18 and 20 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the Examiner's rejection be withdrawn.

Claims 16 and 17

The Examiner has rejected claims 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Eyer in view of Hendricks and further in view of McLaren (5,867,208, hereinafter "McLaren"). The Applicants respectfully traverse the rejection.

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 16 of 18

As discussed above, the combination of Eyer and Hendricks would merely disclose an IPG data that is assigned a single PID, and generating menus by analyzing data and using certain heuristics to create the menus. Nowhere in the combined references is there any teaching or suggestion of "a plurality of encoding units operative to encode a plurality of IPG pages and generate a plurality of streams, wherein each IPG page is associated with a stream and is assigned a respective packet identifier (PID)". Therefore, the combination of Eyer and Hendricks fails to teach or suggest the Applicants' invention as a whole. Furthermore, the McLaren reference fails to bridge the substantial gap as between the Eyer and Hendricks reference, and the Applicants' invention.

In particular, McLaren merely discloses

In step 500 encoder 106 or a similarly functional device receives an uncompressed picture which is preferably larger than MPEG standard size, i.e., larger than standard MPEG length or width or both. The MPEG compression standard is preferably used as the reference standard for size, but other compression standards or methodologies could be used as desired, such as TIFF (Tagged Image File Format) among others. When another compression standard or methodology is used, the reference size would preferably be the size of a displayable image or the size of the portion of the image that would be desirable to view at any one time, instead of the MPEG standard size. When other compression standards or methodologies are used, the term "slice" shall mean a portion of the picture to be compressed which may be independently compressed by that standard or methodology. (see McLaren, column 11, line 59 to column 12, line 13).

Even if the three references could somehow be operably combined, the combination would merely disclose IPG data having a single PID assigned thereto, being sent from provider equipment to subscriber terminals where the IPG data is slice encoded. Nowhere in the combined references is there any teaching or suggestion of "a plurality of encoding units operative to encode a plurality of IPG pages and generate a plurality of streams, wherein each IPG page is associated with a stream and is assigned a respective packet identifier (PID)." Therefore, the combined references fail to teach or suggest the Applicants' invention as a whole.

322598-1

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 17 of 18

As such, the Applicants submit that independent claim 1 and dependent claims 16 and 17 which depend directly from independent claim 1 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the Examiner's rejection be withdrawn.

THE SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicants' disclosure than the primary references cited in the Office Action. Therefore, the Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

322598-1

PATENT
Atty. Dkt. No. SEDN/246CIP1
Page 18 of 18

CONCLUSION

Thus, the Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 2/28/05



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808

322598-1